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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

application of:

MUKUNDA V. PREMA et al.

Group Art Unit: 3618

Examiner: John Olszewski

Serial No.: 10/605,287

Filed: September 19, 2003

For: METHOD FOR HEATING A BATTERY IN A HYBRID
ELECTRIC VEHICLE

Attorney Docket No.: 81044326 (FMC 1581 PUS)

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a response to the Restriction Requirement of November 30, 2006. Applicants elect with traverse to prosecute the species identified as Species III, in which claims 1-20 read thereon. Applicants note that the Examiner's summary of Species III is incorrect since battery charging/discharging may be taken into account (for example see blocks 102 and 104).

Applicants elect with traverse because a proper requirement for restriction has not been made. There are two criteria for a proper requirement for restriction between patentably distinct inventions. First, the inventions must be independent or distinct as claimed. Second, there must be a serious burden on the examiner if restriction is not required. Both criteria must be met (see MPEP § 803). The Examiner has not satisfied the serious burden requirement. A serious burden on the examiner may be *prima facie* shown by appropriate

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8 (FIRST CLASS MAIL)

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

December 15, 2006
Date of Deposit

Matthew M. Mietzel
Name of Person Signing

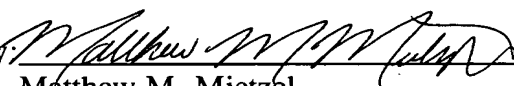

Signature

explanation of separate classification or status in the art, or a different field of search as defined in MPEP § 808.02. The Examiner has provided no such evidence or any arguments that a serious burden exists. Moreover, "if the search and examination of all the claims in a application can be made without serious burden, the examiner must examine them on the merits" even if they include claims to independent or distinct inventions (see MPEP § 803). For these reasons, Applicants respectfully believe that the requirement for restriction is improper and request that it be withdrawn.

Prompt and favorable consideration of this application is requested. If the Examiner notes any minor errors, he is invited to telephone the undersigned so that the matter can be promptly handled by Examiner's amendment.

Respectfully submitted,

MUKUNDA V. PREMA et al.

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Date: December 15, 2006

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